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12 *Attorneys for Defendant*

13 *CREDIT PAYMENT SERVICES, INC.*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 FLEMMING KRISTENSEN, individually,
and on behalf of a class of similarly situated
17 individuals,

18 Plaintiff,

19 v.

20 CREDIT PAYMENT SERVICES, INC.,
a Nevada corporation,
21 f/k/a MYCASHNOW.COM INC.,
ENOVA INTERNATIONAL, INC.,
22 an Illinois corporation,
PIONEER FINANCIAL SERVICES, INC.,
23 a Missouri corporation,
LEADPILE LLC,
24 a Delaware limited liability company, and
25 CLICKMEDIA, LLC d/b/a NET1PROMOTIONS
LLC, a Georgia limited liability company,

26 Defendants.
27
28

) Case No. 2:12-CV-00528-APG (PAL)
)
) **DEFENDANT CREDIT PAYMENT**
) **SERVICES, INC.'S MOTION FOR**
) **LEAVE TO FILE DOCUMENTS**
) **UNDER SEAL PURSUANT TO CIVIL**
) **L.R. 10-5**

1 COMES NOW Defendant Credit Payment Services, Inc. f/k/a MyCashNow.com, Inc.
2 ("CPS"), by and through its counsel, pursuant to Civil Local Rule 10-5, and hereby submits this
3 Motion for leave to file certain documents under seal in connection with Defendant Credit
4 Payment Services, Inc.'s Memorandum in Opposition to Plaintiff's Rule 56(c)(2) Objections to
5 and Motion to Strike the Declaration of Michael Ferry and Other Evidence Submitted in Support
6 of Defendants' Motions for Summary Judgment (the "Opposition"). Further, Defendant states as
7 follows:

8 1. A Stipulated Protective Order was entered in this case on January 11, 2013 (Dkt. 32),
9 to provide guidelines regarding the exchange of confidential information between the Plaintiff and
10 all Defendants (the "Parties"). A First Amended Stipulated Protective Order was entered in this
11 case on January 30, 2014 (Doc. 145) to add provisions for highly confidential information
12 exchanged between the Parties (together, Doc 32 and Doc 145 are hereafter referred to as (the
13 "Protective Order").

14 2. Defendant seeks to file under seal pursuant to Civil L.R. 10-5, Exhibit 1 to the
15 Opposition, further described as deposition transcript excerpted pages containing testimony of
16 Michael Ferry, taken January 10, 2014 in this litigation. This deposition transcript was designated
17 as Confidential pursuant to the Protective Order, and as such, excerpted pages 11, 12, 13, 78, 79,
18 82 and 83 of the transcript are requested to be filed under seal. This Court has unsealed certain
19 pages to the Ferry Deposition transcript, but not these pages.

20 3. The pages in paragraph 1 above has been designated as "Confidential" and "Attorneys
21 Eyes Only" pursuant to the Protective Order because they contain confidential and proprietary
22 business information. The Protective Order contemplates that confidential, proprietary, or private
23 information may be disclosed during the course of discovery, and that the Parties shall follow the
24 procedures set forth in Civil Local Rule 10-5 for filing confidential documents under seal.

25 4. Paragraph 12.4 of the agreed-to Protective Order provides:

26 [...] [A] Party may not file in the public record in this action any Protected
27 Material. A party that seeks to file under seal any Protected Material must
28 seal pursuant to a court order authorizing the sealing of the specific Protected
Material at issue.

(Dkt. 145, emphasis added).

5. Protected Material is defined by the Protective Order to include any “Disclosure or Discovery Material that is designated as “CONFIDENTIAL” or “ATTORNEYS’ EYES ONLY.” (Dkt. 145, ¶ 2.14).

6. Pursuant to Paragraphs 12.4 and 2.14 of the Protective Order, CPS moves to file under seal, Exhibit 1 in support of the Opposition, as further described in paragraph 2 above.

7. As the non-designating party, CPS is not in a position to remove the confidential and/or AEO designations from Exhibit 1.

8. If the Court desires that Exhibit 1 should be available to the public, CPS has no objection. CPS filed its Motion to Seal in an abundance of caution to ensure it complied with the Protective Order.

9. Good cause exists for allowing Defendant to file the above-referenced portions of Exhibit 1 in support of the Opposition under seal in order to avoid disclosure of confidential or proprietary business information; because the subject documents have been designated as “Confidential” and “Attorneys Eyes Only” pursuant to the Protective Order entered into by the Parties; and because the documents were produced or generated during discovery subject to the same Protective Order.

10. Pursuant to Local Rule 10-5 and the District of Nevada’s ECF Filing Procedures, contemporaneously with the filing of this Motion, Defendant will file the exhibit referenced in paragraph 2 above under seal and will serve a paper copy on all parties, in addition to delivering a paper copy to this Court.

WHEREFORE, Defendant respectfully requests that this Court enter an Order granting Defendants' Motion for Leave to File Document Under Seal.

1 DATED: December 4, 2014

DENTONS US LLP

2
3 /s/ Gregory T. Wolf

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12 ***Attorneys for Defendant***
Credit Payment Services, Inc.

13
14 IT IS SO ORDERED

15
16 Dated: _____

17 _____
18 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that on December 4, 2014, I caused the above and foregoing document entitled MOTION FOR LEAVE TO FILE CERTAIN DOCUMENTS UNDER SEAL to be served on all counsel of record through the Court's CM/ECF system.

/s/ Gregory T. Wolf
An Attorney for Defendants